IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

LA.App..No. 666 of 2004(B)

LAR.66/2000 of PRL.SUB COURT, KOZHIKODE
.....

APPELLANT: 1ST RESPONDENT

THE SECRETARY,
BEYPORE GRAMA PANCHAYATH,
BEYPORE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: CLAIMANT AND 1ST RESPONDENT
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1. C.K.PRAKASAN, CHERUKUTTI KOMATH,
B.C.ROAD, BEYPORE VILLAGE,
KOZHIKODE.

2. THE SPECIAL TAHSILDAR,
(LAND ACQUISITION), KOZHIKODE.

R1 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
R2 BY GOVERNMENT PLEADER SRI K.V.MANOJ

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 01/10/2007 ALONG WITH LAA NO. 1129 OF 2005, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

I.A. 3144 OF 2004
IN
LAA 666 OF 2004
....

DISMISSED

1.10.2007. ID/- KURIAN JOSEPH, JUDGE
ID/- HARUN-UL-RASHID, JUDGE

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.Nos.666/2004 & 1129/2005

Dated: OCTOBER 1, 2007

JUDGMENT

Kurian Joseph, J.

These appeals are filed by the requisitioning authority and the State respectively against the judgment and decree in LAR No.66/2000 on the file of the Sub Court, Kozhikode. The acquisition is for the purpose of setting up a play ground in Beypore Grama Panchayat . The total extent involved in this case 48.36 Ares of garden land and 2.23 Ares of wet land.

2. Though the learned counsel for the panchayat as well as the learned Government Pleader took up several contentions regarding the merits of the case. We do not think it necessary to deal with the same. In the common judgment in LAA Nos.961/05 and 607/2007 arising from LAR 142/2000, this court has fixed the land value at Rs.20,000/- per cent for the garden land. In this case the land value granted by the Reference Court for the garden land is Rs.25,000/- and for the wet land it is only Rs.10,000/-. As far as the garden land is concerned, according to the land acquisition officer, the land value granted to the claimant in LAR No.142/2000 is to be 10% less than the value given to the respondents/claimants herein. Therefore, the claimants in this case shall be entitled to 10% above the land value given to the claimants in LAR No.142/2000. Though Sri Gopikrishnan, learned counsel for the claimants, vehemently contended that the claimant in LAR No.142/2000 does not

have road frontage whereas the entire property of the claimants in this case is having road frontage, taking note of the fact that the acquired property is having an extent of 132 cents whereas the property covered by LAR No.142/2000 is only around 6 cents, and the further fact of the shape of the property having a larger extent behind the property facing the road, we are of the view that it will be just and fair that the land value is re-fixed only at 10% above that of the claimant in LAR No.142/2000, adopting the reasoning of the Land Acquisition Officer in that regard.

Accordingly, these appeals are partly allowed and the land value as far as the garden land is concerned is re-fixed at Rs.22000- per cent with eligible statutory benefits. There is no interference as far as the wet land is concerned. No costs.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE.

mt/-